

Supreme Court

In Re: Amendments to Article IV, Rules 3 :
through 3.10 of the Supreme Court Rules, :
captioned “Mandatory Continuing Legal :
Education” :

ORDER

Article IV, Rules 3 through 3.10 of the Supreme Court Rules are hereby amended, effective July 1, 2012, to read as follows:

ARTICLE IV. PERIODIC REGISTRATION OF ATTORNEYS

* * *

Rule 3. Mandatory Continuing Legal Education

Preamble. It is of primary importance to the courts, the bar, and the public that attorneys continue their legal education in order to have and maintain the requisite knowledge and skill necessary to fulfill their professional responsibilities. This ~~Rule~~ is adopted to establish a program of mandatory continuing legal education (MCLE) and to set standards and minimum requirements for that program.

3.1. Commission.

(a) ~~This~~ Supreme Court shall appoint a ~~Mandatory Continuing Legal Education~~ MCLE Commission which shall consist of eleven (11) members, two (2) of whom shall be justices of the Supreme Court who shall serve at the pleasure of the Supreme Court, two (2) of whom shall be justices of the trial courts, five (5) of whom shall be active members of the bar of this State, and two (2) of whom shall be members of the general public. ~~This~~ Supreme Court shall appoint one (1) of the members of the MCLE ~~e~~Commission as its chair.

(b) When the MCLE ~~e~~Commission is first selected, three (3) of its members shall be appointed for a term of one (1) year, three (3) for a term of two (2) years, and three (3) for a term of three (3) years. All terms thereafter shall be for three (3) years, ~~and except for the justices of the Supreme Court, members shall not serve for more than six (6) years.~~ Seven (7) members shall constitute a quorum.

(c) The MCLE ~~e~~Commission shall have the following powers and duties:

(1) to administer Sections 3.2 – 3.98 of this rule under the supervision of ~~the~~ Supreme Court;

(2) to adopt and promulgate, subject to the approval of ~~the~~ Supreme Court, such regulations and rules of procedure as the MCLE eCommission determines are necessary to effectuate this rule;

(3) to designate any person, corporation, or other entity as a sponsor of ~~automatically~~ approved MCLE courses, as provided herein;

(4) to approve courses for MCLE credit upon application of a sponsor, attorney, law firm, corporate legal department, or governmental agency, as provided herein;

(5) to refer attorneys who are not in compliance with this rule to ~~the~~ Supreme Court for the ~~possible~~ imposition of sanctions and removal from the Master Roll of Attorneys; and

(6) to set the fees required under this rule and any others that may be determined by the MCLE eCommission to be necessary in order to ~~cover~~ contribute to the administrative costs of this program.

3.2. MCLE requirements.

(a) Except as provided in Section 3.2(b) of this rule, all attorneys admitted to practice in this state shall complete ten (10) hours of continuing legal education in each MCLE reporting year, at least two (2) hours of which shall be in the area of legal ethics. The MCLE reporting year shall be defined to include the period from July 1st to June 30th.

(b) Section 3.2(a) of this rule shall not apply to:

(1) attorneys who are listed as inactive or retired on the ~~records~~ Master Roll of Attorneys of the Supreme Court;

(2) attorneys holding a full-time federal, state, or municipal ~~State or Federal~~ office and who are not engaged in the practice of law shall be exempt during their term(s) of office;

(3) federal and Sstate and Federal Ccourt judges; and magistrates, ~~and masters~~ whose judicial duties are full-time and who are not engaged in the practice of law;

(4) all newly admitted attorneys admitted to for the current and next full MCLE reporting year practice during a reporting year, for that year only;

(5) attorneys who are seventy (70) years old or over, due to their stature in the profession. Although they are not required to participate in Ccontinuing Llegal Eeducation Pprograms, attorneys in this category are encouraged to do so;

(6) attorneys who are current members of the Rhode Island Board of Bar Examiners and the Committee on Character and Fitness, due to their unique contribution to the profession; and

(7) attorneys who are current members of the Commission on Judicial Tenure and Discipline are exempt from reporting two (2) ethics credits due to their unique contribution to the profession.

(c) The MCLE Commission is authorized to exempt attorneys from MCLE requirements under Section 3.2(a) for good cause shown.

3.3. “Rhode Island Bridge the Gap” requirement.

(a) Requirement – All newly admitted attorneys shall be required to take the one-day, mandatory “Rhode Island Bridge the Gap” course upon admission to the Rhode Island Bar unless at the time of admission he or she has been admitted in another jurisdiction for a period of three (3) years. The attorney shall submit a certificate of good standing to the MCLE eCommission via the Rhode Island Supreme Court Attorney Portal attesting to the fact that he or she has been admitted in another jurisdiction for the prescribed period. No course substitution from other jurisdictions will be accepted for this requirement.

(b) Filing and Records – The course shall be taken by the end of the first full MCLE ~~calendar reporting~~ year after the attorney is admitted to the Rhode Island Bar. On or before June 30 of that MCLE ~~calendar reporting~~ year, each attorney shall file the date proof of attendance with the MCLE eCommission via the Rhode Island Supreme Court Attorney Portal in such form as the eCommission shall prescribe, documenting compliance with this requirement. Each attorney shall maintain such records as may be required to substantiate his or her compliance for a period of three (3) years following the close of each MCLE reporting year.

(c) Course Offering – The “Rhode Island Bridge the Gap” course shall be sponsored by the Rhode Island Bar Association or an educational institution approved by the Supreme Court. The course curriculum shall be approved by the MCLE eCommission. The course shall be offered online as well. The fees for the course, whether in-person or online, shall be set by the Supreme Court as deemed necessary.

(d) No Exemptions or Extensions – Because the course will be offered online, there will be no exemptions or extensions granted by the MCLE eCommission except in exceptional circumstances. An attorney may file a ~~written~~ request for waiver or ~~makeup~~ make up consideration to the MCLE eCommission via the Rhode Island Supreme Court Attorney Portal with full explanation of the extraordinary circumstances supporting the request. The MCLE eCommission shall review and approve or disapprove each request on an individual basis.

(e) No MCLE Credit – As this course contains mandatory content, the course shall not be applied toward any MCLE requirements.

(f) Failure to Comply – A newly admitted attorney who fails to fulfill the requirement under this section by June 30 following the end of the first full MCLE ~~calendar~~ reporting year after the attorney is admitted to the Rhode Island Bar, shall be assessed a ~~makeup~~make up filing fee and shall be removed from the Master Roll of Attorneys without further notice. Any person whose name is not on the Master Roll and who practices law or who holds himself or herself out in any manner to the public or to another person as being competent, qualified, authorized, or entitled to practice law in this State is engaged in the unauthorized practice of law and may be subject to the disciplinary procedures of the Supreme Court.

1. An attorney whose name has been removed from the Master Roll for failure to comply with this rule may be reinstated upon completing the “Rhode Island Bridge the Gap” course and payment of the ~~makeup~~make up filing fee, plus reimbursement of the costs of collection, if any, within six (6) months of the initial filing deadline.

2. Any attorney whose name has been removed from the Master Roll for failure to comply with this rule for a period in excess of six (6) months shall file an application with the Supreme Court seeking reinstatement and provide a copy to the Supreme Court’s Disciplinary Counsel and the MCLE Commission. The applicant for reinstatement shall submit an affidavit attesting that he or she has not been disciplined in this or any other jurisdiction, that the applicant is not the subject of any pending disciplinary charges, and that the applicant is not aware of any reason why the application should not be granted. Disciplinary Counsel shall provide the Supreme Court with a Report and Recommendation on the application within thirty (30) days.

3. An attorney in the practice of law in another jurisdiction who is removed from the Master Roll for failure to comply with this rule shall, in addition to any other prerequisite contained in these rules before being returned to the Master Roll, ~~first shall~~ provide to the Supreme Court a certificate from the appropriate disciplinary tribunal of the jurisdiction in which he or she has been practicing law that (a) he or she is a member in good standing of the bar in such jurisdiction, and (b) that no disciplinary action is pending against him or her in said jurisdiction.

(g) Effective Date – This rule will take effect on July 1, 2012. Individuals admitted as a Rhode Island attorney on or after January 1, 2011 shall be subject to this Section 3.3. On July 1, 2012, individuals admitted as a Rhode Island attorney before January 1, 2011 shall be required to complete only the MCLE requirements set forth in Section 3.2.

3.4. Credits – Computation.

Credit shall be awarded on the basis of one (1) credit hour for each fifty (50) minutes of attendance at an approved course, program, or activity of legal education. Three (3) credit hours shall be awarded for each hour of teaching within an approved MCLE course, program, or activity, up to a maximum of six (6) credit hours per year.

3.5. Accredited Sponsor approval.

(a) Any person, firm, organization or other entity may apply to the MCLE Commission for designation as an ~~approved~~-accredited sponsor of MCLE courses or activities via the Rhode Island Supreme Court Attorney Portal and in such manner as the eCommission shall prescribe. Courses offered by an approved sponsor shall be automatically approved for MCLE credit.

(b) A law firm, corporate legal department, or governmental agency may apply to the MCLE Commission for approval for credit of an in-house course or activity in such manner as the Commission shall prescribe. A minimum of seven (7) lawyers, including the instructor, must attend the course or activity for it to qualify for MCLE credit.

~~(c)~~ The MCLE Commission may promulgate appropriate regulations establishing standards and procedures for approval of sponsors of MCLE courses or activities. The MCLE Commission shall have the authority to monitor and review programs and may revoke the approval of an accredited sponsor that fails to comply with this rule or with eCommission regulations.

~~(d)~~ In order to obtain and maintain approval, sponsors of MCLE courses or activities must comply with the following minimum requirements:

(1) The accredited sponsor must develop and implement methods to evaluate its course offerings to determine their effectiveness and, upon request from the MCLE Commission, provide course evaluations by attendees;

(2) The accredited sponsor must provide courses consistent with the standards for individual course approval as set forth in Section 3.76 of this rule; and

(3) The accredited sponsor must apply for course approval thirty (30) days prior to the course date as well as report attorney attendance no later than thirty (30) days after the course date via the Rhode Island Supreme Court Attorney Portal.

3.6. Individual course approval.

~~(a) A non approved sponsor or a~~An individual attorney may apply to the MCLE Commission for approval for credit of a continuing legal education course or activity in such manner as the eCommission shall prescribe.

~~(b) A law firm, corporate legal department, or governmental agency may apply to the MCLE Commission for approval for credit of an in house course or activity in such manner as the commission shall prescribe. A minimum of seven (7) lawyers, including the instructor, must attend the course or activity for it to qualify for MCLE credit.~~

3.7. Standards.

A continuing legal education course, program, or activity shall meet the following minimum standards in order to be approved for MCLE credit:

(1) It shall be of significant intellectual and practical content such that it will contribute to the growth of an attorney's professional competence and skills;

(2) Its subject matter shall be directly or supportively relevant to the practice of law and/or legal ethics;

(3) It shall be conducted by a person or persons qualified professionally to present the subject matter involved;

(4) It shall be presented in a classroom, meeting room, or lecture hall conducive to a meaningful educational experience;

(5) Its content shall be presented in a multi-mode fashion, utilizing oral presentations supplemented with written hand-outs and texts. All materials shall meet the highest professional standards in terms of their timeliness, organization, and detail; and

(6) It shall utilize video and audio presentations only as an adjunct to oral and written presentations. ~~Satellite presentations shall be approved only if an on-site presenter is in attendance and interaction with participants is planned.~~

3.8. Filing for MCLE credit.

On or before June 30 of each year, each attorney shall document compliance with the MCLE requirements set forth in Section 3.2(a) of this rule or state the basis for his or her exemption under Section 3.2(b) via the Rhode Island Supreme Court Attorney Portal file transcripts or affidavits of attendance in such form as the MCLE eCommission shall prescribe, ~~documenting compliance with the MCLE requirements set forth in Section 3.2(a) of this rule or stating the basis for his or her exemption under Section 3.2(b).~~ Each attorney shall maintain such records as may be required to substantiate his or her compliance or exemption for a period of three (3) years following the close of each MCLE reporting year.

3.9. Failure to comply – Sanctions.

(a) Following the close of each MCLE reporting year the MCLE eCommission shall send a notice of delinquency to each attorney deemed not in compliance with the filing or educational requirements of this rule for that reporting year. If the attorney has failed to fulfill the educational requirements of this rule, the attorney shall correct his or her failure to comply with the requirements within ninety (90) days of the date of the notice of delinquency or the attorney shall be subject to possible sanction by ~~the~~ Supreme Court. A fee shall be assessed for ~~make-up~~ make up filing or for late filing. For any ~~makeup~~ make up credits received after the ninety (90) day ~~make-up~~ make up period has elapsed, the attorney shall be assessed double the published ~~make-up~~ make up filing fee.

(b) If an attorney does not correct his or her failure to comply with the requirements of this rule within one hundred eighty (180) days of the date of the notice of delinquency, the attorney shall be removed from the Master Roll without further notice.

(c) An attorney whose name has been removed from the Master Roll for failure to comply with ~~mandatory continuing legal education~~ MCLE may be reinstated upon completing and filing the courses, ~~and~~ payment of the ~~makeup~~make up filing fee, plus a filing certificate of retroactive qualification certification of proof with the MCLE Commission via the Rhode Island Supreme Court Attorney Portal, and payment of a reinstatement fee within six (6) months of the removal date.

(d) Any attorney whose name has been removed from the Master Roll for failure to comply with this rule for a period in excess of six (6) months shall file an application with the Supreme Court seeking reinstatement and provide a copy to the Supreme Court's Disciplinary Counsel and the MCLE Commission. The applicant for reinstatement shall submit an affidavit attesting that he or she has not been disciplined in this or any other jurisdiction, that the applicant is not the subject of any pending disciplinary charges, and that the applicant is not aware of any reason why the application should not be granted. Disciplinary Counsel shall provide the Supreme Court with a Report and Recommendation on the application within thirty (30) days.

(e) An attorney in the practice of law in another jurisdiction who is removed from the Master Roll for failure to comply with this rule ~~shall~~, in addition to any other prerequisite contained in these rules before being returned to the Master Roll, ~~first shall~~ provide to the Supreme Court a certificate from the appropriate disciplinary tribunal of the jurisdiction in which he or she has been practicing law that (a) he or she is a member in good standing of the bar in such jurisdiction, and (b) that no disciplinary action is pending against him or her in said jurisdiction.

(f) An attorney removed from the Master Roll pursuant to this rule who thereafter comes into compliance shall file ~~a certificate of retroactive qualification certification of proof~~ with the MCLE eCommission via the Rhode Island Supreme Court Attorney Portal in such form as the eCommission shall prescribe and shall also pay a reinstatement fee. An attorney aggrieved by the refusal of the MCLE eCommission to approve ~~a certificate of retroactive qualification~~ his or her certification of proof may file a petition for review with ~~the~~ Supreme Court.

(g) In the event that an attorney resides outside the State of Rhode Island and certifies that he or she has not practiced law in this state during the preceding MCLE reporting year, the Supreme Court clerk, with the concurrence of the Chief Justice, may waive the MCLE requirements for that preceding year. In the event that an attorney resides within the ~~s~~State of Rhode Island, but certifies that he or she has not practiced law during the preceding MCLE reporting year and has ~~handled no cases performed no legal work for any client~~ in Rhode Island during that year, the Supreme Court clerk, with the concurrence of the Chief Justice, may waive the MCLE requirements for that year.

Provided, however, such attorneys must pay the annual registration fee required by Rule 1, Periodic Registration of Attorneys.

3.10. Effective date.

This rule will take effect immediately with respect to the appointment of the MCLE eCommission and the performance by the eCommission of the adoption and promulgation of regulations and rules of procedure, the designation of persons, corporations or other entities as sponsors of automatically approved MCLE courses, and the approval of specific courses for MCLE credits. This rule will take effect with respect to compliance by members of the bar beginning July 1, 1993. At the discretion of the MCLE eCommission, credit may be given for courses taken in the 1993 calendar year prior to July 1.

Changes to these rules will take effect on July 1, 2012.

Entered as an Order of this Court this *20th* day of *June 2012*.

/s/
Suttell, C. J.

/s/
Goldberg, J.

/s/
Flaherty, J.

/s/
Robinson, J.

/s/
Indeglia, J.